HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.9439 of 1996

09-03-2006

Between:

P.Jagadeeswara Rao

… Petitioner

and

Government of A.P. rep. by
its Secretary, Education Department,
Secretariat Buildings at Hyderabad
and others.

… Respondents

HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.9439 of 1996

ORDER:

This writ petition is filed seeking mandamus directing the respondents to pay the pensionary benefits on the basis of revised UGC scale of pay from the date of petitioner's retirement and to declare the recovery from the pension as illegal and arbitrary.

The petitioner retired as Principal of V.R.S. and Y.R.N. College on 31-01-1989 on attaining the age of superannuation of 58 years and prior to the date of retirement, he was drawing

pre-revised U.G.C. pay scale of Rs.700-1600. The petitioner stated that as per G.O.Ms.No.75 dated 07-03-1990, the employees who retired on or after 01-07-1986 and opted for pay scales of 1978, have to be given relief on pension as on 01-01-1986, which shall be merged with D.A. known as the consolidated pension. The consolidated pension shall come into force with effect from

01-07-1986.

The petitioner avers that he is now drawing unrevised pension on the basis of revised UGC scale of pay as per G.O.Ms.No.2 dated 05-01-1994 and the revised pension came into effect from 01-11-1992. It is the case of petitioner that the

consolidation of pension shall apply to those who retired on

or after 01-07-1986 but without the benefit of revised pay scale of 1986. The grievance of the petitioner is that he is drawing pension on the basis of pre-revised UGC scale of pay upto 01-11-1992 and the benefit of revised UGC scale of pay was not extended to him earlier to 01-11-1992. The petitioner stated that the said G.O.Ms.No.75 is made applicable upto 01-11-1992 for the purpose of monetary benefit, but the revised UGC pay scales came into effect from 01-01-1986 and the notional benefit was given from

01-11-1992 only.

The further grievance of the petitioner is that the fifth respondent is recovering the amount from the pension on the premise that excess amount was paid by mistake. The case of the petitioner is that in view of the revised scale of pay, he is entitled to Rs.2,100/- towards pension plus Rs.2,100/- per month towards dearness allowance at the time of retirement. It is averred that the respondents are recovering the amount without any notice and without giving any opportunity and the petitioner states that recovery cannot be done as the revised pension was fixed on notional basis with monetary benefit from 01-11-1992 only as per G.O.Ms.No.2 dated 05-01-1994.

Heard learned counsel for the petitioner. No counter is filed on behalf of respondents and none appears for the respondents.

Admittedly, the petitioner was working as Principal of V.R.S. and Y.R.B. College, Chirala, and had retired from service on attaining the age of superannuation of 58 years and also the petitioner's pension was fixed in the pre-revised U.G.C. pay scale of Rs.700-1600. The Government had issued G.O.Ms.No.75 dated 07-03-1990 stating that for those who retired on or after

01-07-1986, the relief on pension as on 01-01-1986 shall be merged with D.A., which will be called as consolidated pension with effect from 01-07-1986. The petitioner retired from service on 31-01-1989 and the consolidation of pension was

made applicable for those who retired on or after 01-07-1986 without the benefit of revised pay scales of 1986. It appears that the petitioner's pay was not revised at the relevant time and thus he had been drawing pension fixed on the basis of the pre-revised pay scale. The respondents have not chosen to file any counter in this writ petition to adjudicate whether the petitioner is actually entitled to the benefit of G.O.Ms.No.2 dated 05-01-1994. In the absence of any counter denying the averments in the writ affidavit, I am of the view that the case of the petitioner has to be considered by the respondents in terms of G.O.Ms.No.2 dated 05-01-1994 and any other subsequent GOs governing the field, if the petitioner is otherwise eligible and appropriate orders be passed in accordance with the relevant Rules. There shall be an order accordingly.

It is needless to mention that if the petitioner is granted the revised scale of pay in terms of G.O.Ms.No.2 dated
05-01-1994 as also the consequent fixing of pension, the amount already recovered will have to be refunded to him, which shall obviously be subject to the consideration of the petitioner's case in terms of G.O.Ms.No.2 dated 05-01-1994.

The writ petition is accordingly disposed of without any order as to costs.

09-03-2006

bsc